

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

LUIS RAMON RAMIREZ,

Petitioner,

vs.

No. 1:21-cv-00979-KWR-KRS

UNITED STATES TENTH CIRCUIT,

Respondent.

**ORDER DENYING APPLICATION TO PROCEED IN DISTRICT COURT
WITHOUT PREPAYING FEES OR COSTS**

THIS MATTER is before the Court under 28 U.S.C. § 1915(b) on the Application to Proceed in District Court Without Prepaying Fees or Costs filed by Petitioner Luis Ramon Ramirez. (Doc. 1 at 16). The Court **WILL DENY** the Motion and order Petitioner to pay the full \$5 filing fee within thirty (30) days of entry of this Order.

This is a habeas corpus proceeding under 28 U.S.C. § 2254. The filing fee for a § 2254 proceeding is \$5. Petitioner did not pay the \$5 filing fee but, instead, filed his Motion seeking leave to proceed *in forma pauperis*. See 28 U.S.C. §1915(a)(2) (only prisoners seeking to bring a civil action or appeal must submit an inmate account statement). Although § 1915(b)(1) generally does not apply to habeas corpus cases, the Court may consider materials submitted by the Petitioner, including Petitioner's inmate account, in deciding whether to grant leave to proceed *in forma pauperis*. The Court has conducted the analysis of the inmate account submitted by Petitioner under § 1915(b)(1) (Doc. 1 at 17) and has determined that the balance in Petitioner's inmate account immediately preceding filing of this action was \$769.33. (Doc. 1 at 17). The inmate account statement demonstrates that Petitioner has the financial ability to prepay the \$5 fee

for this action. *See* 28 U.S.C. § 1915(b)(3). The Court will therefore deny Petitioner leave to proceed pursuant to § 1915 and will order Petitioner to pay the full \$5 filing fee within 30 days. If Petitioner does not pay the \$5 filing fee within the thirty-day time period, the Court may dismiss this proceeding without further notice.

IT IS ORDERED that the Application to Proceed in District Court Without Prepaying Fees or Costs filed by Petitioner Luis Ramon Ramirez. (Doc. 1 at 16) is **DENIED**; and

IT IS FURTHER ORDERED that Petitioner Luis Ramon Ramirez pay the full \$5.00 filing fee **within thirty (30) days of entry of this Order.**

IT IS SO ORDERED.



KEA W. RIGGS
UNITED STATES DISTRICT JUDGE